

# Commercial Harbor Craft Survey

December 16, 2002



**RETURN DATE: February 14, 2003**

**California Environmental Protection Agency**



**Air Resources Board**

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IF YOUR PACKET IS MISSING ANY ITEMS LISTED ABOVE, PLEASE CONTACT:

Mr. Kirk Rosenkranz at (916) 327-7843 or [krosenkr@arb.ca.gov](mailto:krosenkr@arb.ca.gov)

Facsimile number      (916) 327-6251

# **Part I**

## **Survey Forms**

(these are the forms you will return to the California  
Air Resources Board)

**2002 Commercial Harbor Craft Survey**  
**PART I: SURVEY FORMS**  
**Form A: Owner/Operator Information**

Page \_\_\_\_ of \_\_\_\_

**Please complete the "Owner/Operator" Information Only Once**

**Owner/Operator:** \_\_\_\_\_

Address: \_\_\_\_\_

City/State: \_\_\_\_\_

ZIP Code: \_\_\_\_\_

check one: Owner? \_\_\_\_\_

Operator? \_\_\_\_\_

Owner/Operator? \_\_\_\_\_

Contact Name (and title): \_\_\_\_\_

Phone Number: \_\_\_\_\_

E-mail Address: \_\_\_\_\_

Confidential? \_\_\_\_\_

(yes or no) Note 1

Please Identify the Vessels for Which You Are Providing Survey Information:

**Vessel Name**

**U.S. Coast Guard Documentation Number**

\_\_\_\_\_

\_\_\_\_\_

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Note 1: If you want your information to be held confidential, please complete the Confidentiality Form (found in Part III.B. of this Survey)

**2002 Commercial Harbor Craft Survey**  
**PART I: SURVEY FORMS**  
**Form B: Vessel Information**

Page \_\_\_\_ of \_\_\_\_

**Please complete one form for each vessel** (Note 1):

1) Vessel Name: \_\_\_\_\_

2) Home Port (Note 2): \_\_\_\_\_

3) Vessel Age: \_\_\_\_\_

4) Please indicate the use for the vessel listed on line "1)":

<b>Vessel Use:</b>	Commercial Passenger Fishing _____	Commercial Fishing _____	Crew and supply boat _____
	Ferry/Excursion _____	Pilot _____	Towboat/Push boat _____
	Tug Boat _____	Work Boat _____	Other (specify) _____

4a) If a Fishing Vessel, type of fishing done:

Drift gill netting _____	Set gill netting _____	Purse seine _____
Rakes, air lifts _____	Trawling _____	Trapping _____
Trolling _____	Other (please specify) _____	

5) Total Annual Fuel Usage: 1999: \_\_\_\_\_ 2000: \_\_\_\_\_ 2001: \_\_\_\_\_

6) Percent of Hours Operated at Various Distances Off California's Coast

Harbor Operations Only	_____
0 – 25 miles	_____
26 – 50 miles	_____
51 – 75 miles	_____
76 – 100 miles	_____
greater than 100 miles	_____

Note 1: If you have more than one vessel to report and need additional forms, please contact Kirk Rosenkranz (contact information on Page II-3 of Part II, "Survey Overview and Instructions").

Note 2: The "home port" is the principal place for embarkation or debarkation of passengers, or the loading or unloading of supplies, and is normally used for the overnight berthing of the vessel.

**2002 Commercial Harbor Craft Survey**  
**PART I: SURVEY FORMS**  
**Form C: Propulsion/Auxiliary Engine Information**

Page \_\_\_\_ of \_\_\_\_

Vessel Name: \_\_\_\_\_

Propulsion/Auxiliary Engines **(one form per vessel)** (Note 1)

Engine Number	Propulsion (P) or Auxiliary (A)	Placement Note 2	Make and Model	Repower Note 3	Model Year	Horsepower	2 or 4 stroke	Annual Hours of Operation	Estimated Annual Fuel Usage (gallons) Note 4			Propulsion Engines Only - Engine Exhaust: Wet or Dry Note 5
									1999	2000	2001	
1												
2												
3												
4												
5												
6												
7												

Note 1: For additional forms, please contact Kirk Rosenkranz (contact information on Page II-3 of Part II, "Survey Overview and Instructions").

Note 2: For propulsion engines only – Is the engine on the port side (P), the starboard side (S), or in the center (C)?

Note 3: Was the engine a repower that was funded in full or in part with monies from a State or local air quality program (such as Carl Moyer)?

Note 4: If you are unable to provide fuel usage information by engine, please leave these spaces blank. The ARB will use an alternative method to estimate.

Note 5: "Wet Exhaust" is released at or below the waterline and "Dry Exhaust" is released to the air.

# **Part II**

## **Survey Overview and Instructions**

**2002 Commercial Harbor Craft Survey**  
**PART II: SURVEY OVERVIEW AND INSTRUCTIONS**

**SURVEY OVERVIEW**

The Air Resources Board's (ARB) commercial harbor craft survey is intended to collect information about the various commercial harbor craft operating in California's coastal waters, harbors, and ports. This information is being collected to help update the emissions inventory for commercial marine vessels operating in the State. Below, we have provided information about the Survey in a question and answer format.

**What is the ARB's authority to conduct this Survey?**

This request for information is made pursuant to sections 39600, 39607, 39665, 39701, and 41511 of the California Health and Safety Code and section 91100, Title 17 of the California Code of Regulations. These sections authorize the ARB to require the submission of information needed by the ARB to estimate atmospheric emissions and carry out its other statutory responsibilities.

**Why is the Survey necessary?**

The ARB maintains a statewide emissions inventory for all sources of air emissions such as cars, trucks, marine vessels, construction equipment, industrial facilities, and architectural coatings. The ARB's emission inventory is regularly updated to reflect the most up-to-date emission information, including results of surveys such as this one.

The commercial harbor craft component in the emissions inventory has not been updated on a statewide basis for more than 10 years. It is necessary for us to gather information about the current in-use fleets in California. That way, we can reflect current fleet populations and provide a more accurate estimate of emissions in the emissions inventory for commercial harbor craft.

**Who should complete the Survey form?**

All owners/operators of commercial harbor craft that are operated in California are being asked to complete the Survey.

**Do I have to complete the Survey?**

Yes. State law requires that you provide the requested information by completing and returning the Survey. If the Survey does not apply to you, please state in the Survey why it does not apply to you and return it to the address indicated.

**What information needs to be provided in the Survey?**

The Survey requests specific information about each vessel. This includes information like who owns or operates the vessel, how the vessel is used, and where its home port is. The Survey also requests information on the propulsion and



**2002 Commercial Harbor Craft Survey**  
**PART II: SURVEY OVERVIEW AND INSTRUCTIONS**

auxiliary engines on the vessel, including the make and model, the horsepower, and the engine's age. Information on the typical operating parameters is also requested, including the annual hours of operation, how far offshore the vessel is operated, and an estimate of annual fuel usage.

**If the Survey information is claimed as confidential, how will it be treated?**

The ARB has adopted regulations to protect the confidentiality of trade secrets (Title 17, CCR, sections 91000 to 91022). A summary of ARB's confidentiality regulations can be found in Part II of the Survey on the "Confidential Information Submittal Form." You should fill out this form if you wish to designate any Survey information as confidential.

**When do I need to return the Survey, and where do I send it?**

Please return the Survey by February 14, 2003 to:

California Air Resources Board  
Attn: Kirk Rosenkranz  
Stationary Source Division  
P.O. Box 2815  
Sacramento, CA 95812-2815  
**CONFIDENTIAL MATERIALS ENCLOSED** (if that's the case)

In an effort to simplify and streamline the data gathering process, we have made the Survey forms available electronically. If you prefer to submit the Survey forms electronically, please see the Electronic Submittal Form in Part II for the information about how to obtain a diskette (or download the Survey from the Internet). To access the Survey on our website, go to:

<http://www.arb.ca.gov/diesel/documents/harborcraft.htm>

**Who can I call if I have questions about the Survey?**

If you have any questions, please contact the following staff person:

Kirk Rosenkranz     (916) 327-7843     [krosenkr@arb.ca.gov](mailto:krosenkr@arb.ca.gov)

**2002 Commercial Harbor Craft Survey**  
**PART II: SURVEY OVERVIEW AND INSTRUCTIONS**

**SURVEY INSTRUCTIONS**

Before you begin filling out the Survey form, please read the instructions carefully. Included for your assistance are sample forms.

**THE SURVEY FORM**

Explanations for each Survey data field are provided below. If you own and/or operate more than one vessel, **we need the owner/operator information (Part A) once**. Please complete the vessel information (Part B) and engine information (Part C) for each vessel you own/operate. If you need additional forms, those can be downloaded from the website listed above. If that method is unavailable to you, please contact Kirk Rosenkranz at (916) 327-7843, and he will work with you to make arrangements to get additional forms to you.

**Survey Data Fields**

**Form A: Owner/Operator Information**

**Owner/Operator:** Please enter the name of the owner/operator of the vessel(s).

**“Owner,” “Operator,” and “Owner/Operator”:** Please place a mark (an “X” or a check mark) on the appropriate line indicating whether you own the vessel, operate the vessel, or own and operate the vessel.

**Confidential:** Please indicate as to whether or not you would like the ARB to treat your information as confidential information. If you designate information as confidential, you also need to fill out the confidential information submittal form and return that to the ARB with your Survey.

**Address/City/State/ZIP Code:** Mailing address, city, state, and ZIP code of company. Also, if the vessel is harbored elsewhere, please provide the address of the vessel.

**Contact Name (and title):** Enter the name and title of the person to be contacted by the ARB if we have questions about the information provided.

**Phone Number:** Enter the phone number of the contact person.

**E-mail Address:** Enter the e-mail address of the contact person, if available.

**Vessel Name:** Enter the name of each vessel you own/operate.

**2002 Commercial Harbor Craft Survey**  
**PART II: SURVEY OVERVIEW AND INSTRUCTIONS**

**U.S. Coast Guard Documentation Number:** Please enter the U.S. Coast Guard documentation number assigned your vessel(s). If your vessel(s) are not documented with the U.S. Coast Guard, please provide the agency the vessel is documented with and the identification number assigned.

**Form B: Vessel Information**

*(As a reminder, for the purposes of this Survey, “commercial harbor craft” are defined as vessels used for commercial purposes or to support public services. We have categorized commercial harbor craft into a number of categories, including Crew and Supply Boats, Charter Fishing Vessels, Commercial Fishing Vessels, Ferry/Excursion Vessels, Pilot Vessels, Towboat/Push Boats, Tug Boats, and Work Boats. Additional information about these categories is found below. Typically, harbor craft have one or more engines, with individual engines generally rated between 50 and 6,500 horsepower. We are not collecting information for recreational vessels that are used solely for one’s personal use.)*

**Vessel Name:** Enter the vessel name for which the data is being provided.

**Home Port:** Enter the vessel’s home port. A vessel’s home port is the principal place for embarkation or debarkation of passengers, or the loading or unloading of supplies, and is normally used for the overnight berthing of the vessel.

**Vessel Age:** Enter the age of the vessel.

**Vessel Use:** Please select the most appropriate type of commercial harbor craft from the seven types of harbor craft shown on the form. If there is more than one vessel for which you are providing information, please use additional forms. Descriptions of the different types are as follows:

**Commercial Fishing Vessels:** self-propelled vessels dedicated to the search for, and collection of, fish for the purpose of sale at market.

**Commercial Passenger Fishing Vessels:** self-propelled vessels for hire by the general public (seven or more people) dedicated to the search for, and collection of, fish for the purpose of personal consumption.

**Crew and Supply Boats:** self-propelled vessel used for carrying personnel and supplies to and from off-shore and in-harbor locations (including, but not limited to, off-shore work platforms, construction sites, and other vessels).

**Ferry/Excursion Vessel:** a vessel owned, controlled, operated, or managed for public use in the transportation of persons or property, except rowboats, sailing boats, barges under 20 tons dead weight carrying capacity, and vessels that are under the burden of five tons net register and under 30 feet in length.

**2002 Commercial Harbor Craft Survey**  
**PART II: SURVEY OVERVIEW AND INSTRUCTIONS**

**Pilot vessels:** self-propelled vessels used to guide ocean-going vessels safely into and out of a port or harbor.

**Towboat/Push boat:** self-propelled vessel designed to tow/push barges and pontoons. The hull is usually rectangular in plan and has little freeboard (the portion of the side of a hull that is above the water).

**Tug boats:** self-propelled vessel for the towing (and pushing) of ships or other floating structures such as barges in ports/harbors.

**Work boats:** self-propelled vessel that performs duties such as fire/rescue, law enforcement, hydrographic surveys, spill/response, research, training, and construction (including drilling) vessels.

**If a Fishing Vessel, type of fishing done:** If you select one of the fishing vessel types as the type of harbor craft you own and/or operate, please select the most appropriate type of fishing you do.

**Total Annual Fuel Usage:** Please provide an estimate of the total annual fuel use for 1999, 2000, and 2001 for the vessel identified in Item #1.

**Percent Hours Operated At Distance Off California's Coast:** Please enter your best estimate of the percentage of total hours of operation spent in the ranges of distances shown.

**Form C: Propulsion/Auxiliary Engine Information**

**Vessel Name:** Enter the vessel name for which the data is being provided.

**Engine #:** Please assign each engine a number in numeric order.

**Propulsion (P) or Auxiliary (A):** Please designate whether the engine you are providing information for is a propulsion engine or an auxiliary engine.

**Placement:** For propulsion engines only, please indicate if the engine is located on the port side (p), the starboard side (s), or in the center (c).

**Make and Model:** Please provide the name of the manufacturer and the model number of each propulsion engine on the vessel. If there is more than one engine of the same type on the vessel, you can indicate that as follows:

If you have two engines of the same make, model, horsepower, and age, you would write "x2" next to the make and model information

**Repower:** Please indicate whether or not the engine listed is a repower that was funded in full or in part with monies from a state or local air quality program (such as Carl Moyer).

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**Model Year:** Please provide the model year of the engine. If the engine is a repower, please provide when the repower was completed, whether it was a part of a State or local repower program, and the name of the program.

**Horsepower:** Please provide the horsepower of the engine.

**2 stroke or 4 stroke:** Please indicate if the engine is 2-stroke or 4-stroke.

**Annual Hours of Engine Operation:** Please enter the estimated hours of operation for each engine.

**Estimated Annual Fuel Usage (last three years):** Please provide an estimate of the annual fuel use for each engine for 1999, 2000, and 2001. If you are unable to allocate the fuel use by engine type, please leave these spaces blank. The ARB will use an alternative method to estimate these values.

**Engine Exhaust - Wet or Dry:** For propulsion engines only, please identify whether the engine exhaust from your vessel is wet (at or below the waterline) or dry (to the air).

# Part III

## Supporting Attachments

- A) Sample Forms
- B) Confidential Information Submittal Form
- C) Electronic Data Submittal Form
- D) Excerpts from the California Code of Regulations pertaining to the handling of confidential information:
  - Title 17, California Code of Regulations,
  - Sections 91000 to 91100

**2002 Commercial Harbor Craft Survey**  
**PART III: SUPPORTING ATTACHMENTS**  
**Sample Form A: Owner/Operator Information**

Page   1   of   3  

**Please complete the "Owner/Operator" Information Only Once**

**Owner/Operator:** Alan Torqueson  
**Address:** 1234 Main Street  
**City/State:** Everyville, CA  
**ZIP Code:** 99999

check one: Owner? \_\_\_\_\_  
Operator? \_\_\_\_\_  
Owner/Operator?   X  

**Contact Name (and title):** same  
**Phone Number:** (916) 555-5555  
**E-mail Address:** atorques@fishingman.com

**Confidential?** no  
(yes or no) Note 1

**Please Identify the Vessels for Which You Are Providing Survey Information:**

<u><b>Vessel Name</b></u>	<u><b>U.S. Coast Guard Documentation Number</b></u>
<u>Glorious Day</u>	<u>VN99999999</u>
<u> </u>	<u> </u>
<u> </u>	<u> </u>
<u> </u>	<u> </u>
<u> </u>	<u> </u>
<u> </u>	<u> </u>

Note 1: If you want your information to be held confidential, please complete the Confidentiality Form (found in Part III.B. of this Survey)

**2002 Commercial Harbor Craft Survey**  
**PART III: SUPPORTING ATTACHMENTS**  
**Sample Form B: Vessel Information**

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**Please complete one form for each vessel** (Note 1):

1) Vessel Name: Glorious Day

2) Home Port (Note 2): Every Port, CA.

3) Vessel Age: 22 years

4) Please indicate the use for the vessel listed on line "1)":

<b>Vessel Use:</b>	Commercial Passenger Fishing	<u>          </u>	Commercial Fishing	<u>  X  </u>	Crew and supply boat	<u>          </u>
	Ferry/Excursion	<u>          </u>	Pilot	<u>          </u>	Towboat/Push boat	<u>          </u>
	Tug Boat	<u>          </u>	Work Boat	<u>          </u>	Other (specify)	<u>          </u>

4a) If a Fishing Vessel, type of fishing done:

Drift gill netting	<u>          </u>	Set gill netting	<u>          </u>	Purse seine	<u>          </u>
Rakes, air lifts	<u>          </u>	Trawling	<u>  X  </u>	Trapping	<u>          </u>
Trolling	<u>          </u>	Other (please specify)	<u>          </u>		

5) Total Annual Fuel Usage:      1999:   34,750                        2000:   37,350                        2001:   37,075  

6) Percent of Hours Operated at Various Distances Off California's Coast	Harbor Operations Only	<u>  5  </u>
	0 – 25 miles	<u>  10  </u>
	26 – 50 miles	<u>  55  </u>
	51 – 75 miles	<u>  30  </u>
	76 – 100 miles	<u>          </u>
	greater than 100 miles	<u>          </u>

Note 1: If you have more than one vessel to report and need additional forms, please contact Kirk Rosenkranz (contact information on Page II-3 of Part II, "Survey Overview and Instructions").

Note 2: The "home port" is the principal place for embarkation or debarkation of passengers, or the loading or unloading of supplies, and is normally used for the overnight berthing of the vessel.



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PART III: SUPPORTING ATTACHMENTS**

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**Sample Form C: Propulsion/Auxiliary Engine Information**

Vessel Name: Glorious Day

Propulsion/Auxiliary Engines **(one form per vessel)** (Note 1)

Engine Number	Propulsion (P) or Auxiliary (A)	Placement Note 2	Make and Model	Repower Note 3	Model Year	Horsepower	2 or 4 stroke	Annual Hours of Operation	Estimated Annual Fuel Usage (gallons) Note 4			Propulsion Engines Only - Engine Exhaust: Wet or Dry Note 5
									1999	2000	2001	
1	P		Detroit Diesel 12V-71TA	no	1982	580	2	3,500	32,500	35,250	34,900	dry
2	A		Detroit Diesel 3-71N	no	1982	62	2	1,000	2,250	2,100	2,175	dry
3												
4												
5												
6												
7												

Note 1: For additional forms, please contact Kirk Rosenkranz (contact information on Page II-3 of Part II, "Survey Overview and Instructions").

Note 2: For propulsion engines only – Is the engine on the port side (P), the starboard side (S), or in the center (C)?

Note 3: Was the engine a repower that was funded in full or in part with monies from a State or local air quality program (such as Carl Moyer)?

Note 4: If you are unable to provide fuel usage information by engine, please leave these spaces blank. The ARB will use an alternative method to estimate.

Note 5: "Wet Exhaust" is released at or below the waterline and "Dry Exhaust" is released to the air.

**2002 Commercial Harbor Craft Survey  
PART III: SUPPORTING ATTACHMENTS**

**CONFIDENTIAL INFORMATION SUBMITTAL FORM**

If you wish to designate any information contained in your survey data as **CONFIDENTIAL INFORMATION**, please provide the information requested below and return it with your completed Survey form.

In accordance with Title 17, California Code of Regulations (CCR), Sections 91000 to 91022, and the California Public Records Act (Government Code Section 6250 et seq.), the information that a company provides to the Air Resources Board (ARB) may be released (1) to the public upon request, except trade secrets which are not emissions data or other information which is exempt from disclosure or the disclosure of which is prohibited by law, and 2) to the Federal Environmental Protection Agency, which protects trade secrets as provided in Section 114(c) of the Clean Air Act and amendments thereto (42 USC 7401 et seq.) and in federal regulation, and 3) to other public agencies provided that those agencies preserve the protections afforded information which is identified as a trade secret, or otherwise exempt from disclosure by law (Section 39660(e)).

Trade Secrets as defined in Government Code 6254.7 are not public records and therefore will not be released to the public. However, the California Public Records Act provides that air pollution emission data are always public records, even if the data comes within the definition of trade secrets. On the other hand, the information used to calculate information is trade secret.

If any company believes that any of the information it may provide is a trade secret or otherwise exempt from disclosure under any provision of law, **it must identify the confidential information as such at the time of submission to the ARB and must provide the name, address, and telephone number of the individual to be consulted**, if the ARB receives a request for disclosure or seeks to disclose the data claimed to be confidential. The ARB may ask the company to provide documentation of its claim of trade secret or exemption at a later date. Data identified as confidential will not be disclosed unless the ARB determines, in accordance with the above referenced regulations, that the data do not qualify for a legal exemption from disclosure. The regulations establish substantial safeguards before any such disclosure.

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In accordance with the provisions of Title 17, California Code of Regulations, Sections 91000 to 91022, and the California Public Records Act (Government Code Sections 6250 et seq.)

Company Name: \_\_\_\_\_ declares that all the information submitted in response to the California Air Resources Board's information request on the Survey is confidential "trade secret" information, and request that it be protected as such from public disclosure. All inquiries pertaining to the confidentiality of this information should be directed to the following person:

Date: \_\_\_\_\_

Mailing Address:

\_\_\_\_\_  
(Signature)  
\_\_\_\_\_  
(Printed Name)  
\_\_\_\_\_  
(Title)  
\_\_\_\_\_  
(Telephone Number)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**2002 Commercial Harbor Craft Survey  
PART III: SUPPORTING ATTACHMENTS**

**ELECTRONIC DATA SUBMITTAL FORM**

To simplify and streamline the data gathering process, we have made the "Harbor Craft Survey" available electronically. You can download the Survey from our website or we can send you a diskette if you complete this form and return it to us by fax. Microsoft Word97 or 2000 is required to complete the Survey electronically.

Internet Access: <http://www.arb.ca.gov/diesel/documents/harborcraft.htm>

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If you would like us to send you a diskette containing the Survey, please complete the form below.

**California Air Resources Board  
Stationary Source Division  
P.O. Box 2815  
Sacramento, CA 95812-2815**

Attention: Kirk Rosenkranz  
Phone Number: (916) 327-7843  
Fax Number: (916) 327-6251

**Date:** \_\_\_\_\_

**Name:** \_\_\_\_\_

**Company:** \_\_\_\_\_

**Phone Number:** \_\_\_\_\_

**Fax Number:** \_\_\_\_\_

**Mailing Address:** \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**2002 Commercial Harbor Craft Survey  
PART III: SUPPORTING ATTACHMENTS**

**EXCERPTS FROM THE CALIFORNIA CODE OF REGULATIONS  
PERTAINING TO THE HANDLING OF CONFIDENTIAL INFORMATION:  
TITLE 17, CALIFORNIA CODE OF REGULATIONS,  
SECTIONS 91000 TO 91100**

**Subchapter 4. Disclosure of Public Records**

**Article 1. General**

**§91000. Scope and Purpose.**

This subchapter shall apply to all requests to the state board under the California Public Records Act (Government Code Sections 6250 et seq.) for the disclosure of public records or for maintaining the confidentiality of data received by the state board. Written guidelines shall govern the internal review of such requests.

NOTE: Authority cited: Sections 39600 and 39601(a), Health and Safety Code. Reference: California Public Records Act, Chapter 3.5 (commencing with Section 6250), Division 7, Government Code.

**§91001. Disclosure Policy.**

It is the policy of the state board that all records not exempted from disclosure by state law shall be open for public inspection with the least possible delay and expense to the requesting party.

NOTE: Authority cited: Sections 39600 and 39601(a), Health and Safety Code. Reference: Section 6253, Government Code; Black Panther Party v. Kehoe (1974) 42 Cal.App.3d 645.

**Article 2. Board's Requests for Information**

**§91010. Request Procedure.**

The state board shall give notice to any person from whom it requests information that the information provided may be released (1) to the public upon request, except trade secrets which are not emission data or other information which is exempt from disclosure or the disclosure of which is prohibited by law, and (2) to the federal Environmental Protection Agency, which protects trade secrets as provided in Section 114(c) of the Clean Air Act and amendments thereto (42 USC 7401 et seq.) and in federal regulations.

NOTE: Authority cited: Sections 39600, 39601 and 39602, Health and Safety Code. Reference: Sections 39701, 41510, 41511, 41512 and 42705, Health and Safety Code; and Section 6253, Government Code.

**2002 Commercial Harbor Craft Survey  
PART III: SUPPORTING ATTACHMENTS**

**EXCERPTS FROM THE CALIFORNIA CODE OF REGULATIONS  
PERTAINING TO THE HANDLING OF CONFIDENTIAL INFORMATION:  
TITLE 17, CALIFORNIA CODE OF REGULATIONS,  
SECTIONS 91000 TO 91100**

§91011. Submissions of Confidential Data.

Any person submitting to the state board any records containing data claimed to be "trade secret" or otherwise exempt from disclosure under Government Code Section 6254 or 6254.7 or under other applicable provisions of law shall, at the time of submission, identify in writing the portions of the records containing such data as "confidential" and shall provide the name, address and telephone number of the individual to be contacted if the state board receives a request for disclosure of or seeks to disclose the data claimed to be confidential. Emission data shall not be identified as confidential. The state board shall not disclose data identified as confidential, except in accordance with the requirements of this subchapter or Section 39660(e) of the Health and Safety Code.

NOTE: Authority cited: Sections 39600 and 39601, Health and Safety Code. Reference: Sections 39660, 39701, 41500, 41511, 41512 and 42705, Health and Safety Code; Sections 6253, 6254 and 6254.7, Government Code; Natural Resources Defense Council v. EPA, 489 F.2d 390 (5th Cir. 1974) (6 ERC 1248); Northern California Police Practices Project v. Craig (1979) 90 Cal.App.3d 116; Uribe v. Howie (1971) 19 Cal.App.3d 194.

**Article 3. Inspection of Public Records**

§91020. Disclosure Policy.

§91021. Disclosure Procedure.

NOTE: Authority cited: Section 39601, Health and Safety Code. Reference: Sections 6253-6257, Government Code.

§91022. Disclosure of Confidential Data.

- (a) This section shall apply to all data in the custody of the state board
  - (1) designated "trade secret" prior to the adoption of this subchapter,
  - (2) considered by the state board or identified by the person who submitted the data as confidential pursuant to this subchapter, or
  - (3) received from a federal, state or local agency, including an air pollution control district, with a confidential designation, subject to the following exceptions:

**2002 Commercial Harbor Craft Survey  
PART III: SUPPORTING ATTACHMENTS**

**EXCERPTS FROM THE CALIFORNIA CODE OF REGULATIONS  
PERTAINING TO THE HANDLING OF CONFIDENTIAL INFORMATION:  
TITLE 17, CALIFORNIA CODE OF REGULATIONS,  
SECTIONS 91000 TO 91100**

- (A) Except for the time limits specifically provided in subsection (b), only subsections (c) and (d) of this section shall apply to information submitted pursuant to Health and Safety Code section 39660(e).
- (B) Appropriate portions of an application for approval, accreditation, or certification of a motor vehicle emission control device or system shall be kept confidential until such time as the approval, accreditation, or certification is granted, at which time the application (except for trade secret data) shall become a public record, except that estimates of sales volume of new model vehicles contained in an application shall be kept confidential for the model year, and then shall become public records. If an application is denied, it shall continue to be confidential but shall be subject to the provisions of this section.
- (C) If disclosure of data obtained after August 9, 1984 from a state or local agency subject to the provisions of the Public Records Act is sought, the state board shall request that the agency which provided the data determine whether it is confidential. The state board shall request that it be notified of the agency's determination within ten days. The state board shall not release the data if the agency determines that it is confidential and so notifies the state board; provided, however, that the data may be released with the consent of the person who submitted it to the agency from which it was obtained by the state board.
- (b) Upon receipt of a request from a member of the public that the state board disclose data claimed to be confidential or if the state board itself seeks to disclose such data, the state board shall inform the individual designated pursuant to Section 91011 by telephone and by mail that disclosure of the data is sought. The person claiming confidentiality shall file with the state board documentation in support of the claim of confidentiality. The documentation must be received within five (5) days from the date of the telephone contact or of receipt of the mailed notice, whichever first occurs. In the case of information submitted pursuant to Health and Safety Code section 39660(e), the documentation must be received within 30 days of the date notice was mailed pursuant to that section. The deadlines for filing the documentation may be extended by the state board upon a showing of good cause made within the deadline specified for receipt of the documentation.
- (c) The documentation submitted in support of the claim of confidentiality shall include the following information:

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- (1) the statutory provision(s) under which the claim of confidentiality is asserted;
  - (2) a specific description of the data claimed to be entitled to confidential treatment;
  - (3) the period of time for which confidential treatment is requested;
  - (4) the extent to which the data has been disclosed to others and whether its confidentiality has been maintained or its release restricted;
  - (5) confidentiality determinations, if any, made by other public agencies as to all or part of the data and a copy of any such determinations, if available; and
  - (6) whether it is asserted that the data is used to fabricate, produce, or compound an article of trade or to provide a service and that the disclosure of the data would result in harmful effects on the person's competitive position, and, if so, the nature and extent of such anticipated harmful effects.
- (d) Documentation, as specified in subsection (c), in support of a claim of confidentiality may be submitted to the state board prior to the time disclosure is sought.
- (e) The state board shall, within ten (10) days of the date it sought to disclose the data or received the request for disclosure, or within 20 days of that date if the state board determines that there are unusual circumstances as defined in Government Code Section 6256.1, review the request, if any, and supporting documentation, if received within the time limits specified in subsection (b) above, including any extension granted, and determine whether the data is entitled to confidential treatment pursuant to Government Code Section 6254, 6255 or 6254.7 or other applicable provisions of law and shall either:
- (1) decline to disclose the data and, if a request was received, provide to the person making the request and to the person claiming the data is confidential a justification for the determination pursuant to Government Code Section 6255; or
  - (2) provide written notice to the person claiming the data is confidential and, if a request was received, to the person requesting the data that it has determined that the data is subject to disclosure, that it proposes to

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disclose the data, and that the data shall be released 21 days after receipt of the notice by the person claiming confidentiality, unless the state board is restrained from so doing by a court of competent jurisdiction. The state board shall release the data in accordance with the terms of the notice unless so restrained.

- (f) Should judicial review be sought of a determination issued in accordance with subsection (e), either the person requesting data or the person claiming confidentiality, as appropriate, may be made a party to the litigation to justify the determination.

NOTE: Authority cited: Section 39601, Health and Safety Code.

Reference: Sections 6253, 6254, 6254.7, 6255, 6256, 6256.1, 6258 and 6259, Government Code.